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Federal Communications Commission

DA 97-2163

DISPATCHED BY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 96-124
Table of Allotments,)	RM-8813
FM Broadcast Stations.)	RM-8864
(Winner and Wessington Springs,)	
South Dakota))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 1, 1997;

Released: October 10, 1997

By the Chief, Allocations Branch:

1. At the request of Midwest Radio Corporation. ("petitioner"), permittee of Station KGGK(FM), Channel 253C1, Winner, South Dakota, the Commission has before it the Notice of Proposed Rule Making, 11 FCC Rcd 6663 (1996), proposing the substitution of Channel 252C1 for Channel 253C1 at Winner, the reallocation of Channel 252C1 from Winner to Wessington Springs, South Dakota, and the modification of Station KGGK(FM)'s construction permit accordingly (RM-8813). Petitioner filed comments in support of the proposal reaffirming its intention to apply for Channel 252C1, if reallocated to Wessington Springs. Comments and a counterproposal were filed by Dakota Communications, Ltd. ("Dakota"), proposing the allotment of Channel 251C1 at Wessington Springs, South Dakota, as a first local aural transmission service (RM-8864).¹ Petitioner filed comments in response to the counterproposal. For the reasons discussed below, we are allotting Channel 227C1 to Wessington Springs as a new local service. In addition, we are modifying Station KGGK(FM)'s construction permit to specify operation on Channel 252C1 at Wessington Springs.

2. Conflicting proposals are comparatively considered under the guidelines set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982).² However, in this situation, an alternate Class C1 channel has been found that resolves the conflict between the

¹The counterproposal was placed on Public Notice on August 16, 1996, Report No. 2149 (RM-8864).

²The allotment priorities are (1) First full-time aural service; (2) Second full-time aural service; (3) First local service, and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

two competing proposals for Wessington Springs. As such, a comparative analysis is not necessary. See Lawton, Oklahoma, 4 FCC Rcd 1807 (1989). To this end, we will allot Channel 227C1 to Wessington Springs as a new local service.

3. We also believe that reallocating Channel 252C1 to Wessington Springs and modifying the Station KGGK(FM)'s construction permit to specify Wessington Springs as the community of license represents a preferential arrangement of allotments as required by the Commission's action in Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 4870 (1989); recon. granted in part, 5 FCC Rcd 7094 (1990). At the outset, we note that Station KGGK(FM) is an unbuilt facility and that Winner will continue to receive two local services. Had the Station KGGK facility been built, it would have served 18,306 persons in an area of 16,150 square kilometers (6,238 square miles). This entire service area receives at least three reception services. In comparison, Station KGGK(FM) at Wessington Springs will serve 50,795 persons in an area of 16,150 square kilometers (6,238 square miles). In addition, this reallocation will provide primary service to a white area of 49 square kilometers (19 square miles) containing 87 persons, and to a gray area of 1,033 square kilometers (399 square miles) containing 1,508 persons. Accordingly, we will reallocate Channel 252C1 to Wessington Springs, South Dakota, as the community's first local aural transmission service.

Technical Summary

4. An engineering analysis has determined that Channels 227C1 and 252C1 can be allotted to Wessington Springs in compliance with the Commission's minimum distance separation requirements at city reference coordinates.⁴ In accordance with Section 1.420(i) of the Commission's Rules, we modify Station KGGK(FM)'s construction permit to specify operation on Channel 252C1 at Wessington Springs, South Dakota, as its new community of license.

5. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 24, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

³Even though there will eventually be a competing service on Channel 227C1, the reallocation of Channel 252C1 will, at this time, provide a first local service to Wessington Springs.

⁴The coordinates for Channels 227C1 and 252C1 at Wessington Springs are North Latitude 44-05-12 and West Longitude 98-34-24.

<u>City</u>	<u>Channel No.</u>
Winner, South Dakota	229C1
Wessington Springs, South Dakota	227C1, 252C1,

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit of Midwest Radio Corporation for Station KGGK(FM), Winner, South Dakota, IS MODIFIED to specify operation on Channel 252C1 in lieu of Channel 253C1 at Wessington Springs, South Dakota, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station KGGK(FM)'s construction permit, BPH-940620MB, except the channel as specified above. Any other changes, except for those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with construction permit BPH-94020MB, except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Midwest Radio Corporation, permittee of Station KGGK(FM), is required to submit a rule making fee in addition to the fee required for the application to effect the change in community of license.

8. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the following:

Midwest Radio Corporation
P.O. Box 491
Winner, South Dakota 57580
(Permittee of Station KGGK(FM))

9. The window period for filing applications for Channel 227C1 at Wessington Springs, South Dakota, will open on November 24, 1997, and close on December 26, 1997.

10. IT IS FURTHER ORDERED. That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 227C1 at Wessington Springs, South Dakota, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau